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C O N F I D E N T I A L SECTION 01 OF 02 TASHKENT 001151

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DEPARTMENT FOR SCA/CEN AND EUR/ACE AND USAID
ASTANA ALSO FOR USAID

E.O. 12958: DECL: 06/19/2017

TAGS: PREL FAID UZ

SUBJECT: UZBEKS APPARENTLY WILLING TO "FORGIVE" NGO TAX
PENALTIES

REF: A. TASHKENT 1070

1B. TASHKENT 1069

Classified By: CDA Brad Hanson for reasons 1.4 (b) and (d).

11. (C) Summary: A U.S.-Uzbekistan working group met June 19 to discuss the process whereby U.S. assistance funds frozen or seized by the Government of Uzbekistan could be returned to the USG for reprogramming in the health sector. The U.S. side said that the most pressing issue was to halt liquidation proceedings against ACDI/VOCA and FINCA to provide time to agree on procedures. The U.S. also laid out several points that it believed should be included in the agreement. MFA Americas Department Chief said that a mechanism exists to "forgive" financial penalties against ACDI/VOCA and FINCA if an agreement is reached, and that he would pass the U.S. request to stop the forced liquidation of the organizations to the appropriate authorities. He requested that the U.S. put its specific proposals into a draft agreement that the Government of Uzbekistan could review and react to. The meeting suggests that the Uzbeks have made the political decision to reach an agreement which will apparently allow ACDI/VOCA and FINCA to leave Uzbekistan with no contingent liabilities. Post will provide MFA informally with a USAID-drafted Memorandum of Understanding for its comments in an effort to bring the issue to a close. End summary.

12. (C) A U.S.-Uzbek working group met June 19 to discuss the details of an agreement (reftels) whereby the Government of Uzbekistan would return U.S. assistance funds seized from ACDI/VOCA and the Foundation for International Community Assistance (FINCA) and release the organizations' bank accounts in return for the USG reprogramming these funds into health sector assistance activities. The Uzbek side was led by Tohir Mamadjanov, Acting Chief of MFA's Americas Department, and included representatives of the Ministries of Finance, Health, and Justice and the State Tax Committee. The United States was represented by USAID Regional Legal Counsel, USAID Acting Country Representative, and Poloff.

13. (C) USAID Regional Legal Counsel said that from the U.S. perspective, the most immediate concern is to stop further liquidation proceedings against ACDI/VOCA and FINCA to allow us time to reach an agreement on the assets involved. Any future agreement should allow the organizations to liquidate their outstanding loan portfolios and physical assets, satisfy outstanding debts not related to the imposed financial penalties, and transfer any funds remaining to the USG for reprogramming. Once liquidation proceedings are halted and agreement is reached on the principles, he said,

we could start to talk about the amount of available money and the specific purposes for which it might be used. This will take time.

¶4. (C) Mamadjanov said that the fines had been imposed because ACDI/VOCA and FINCA had broken the law. However, out of "deep respect" for the United States and a desire for a good bilateral relationship, the Government of Uzbekistan had agreed to the reprogramming proposal. While overturning the court decisions (Comment: And possibly admitting they were in error. End comment.) would not be possible, he said, there is a mechanism by which the fines can be "forgiven" if an agreement is reached. Mamadjanov said that he would pass the U.S. request to the appropriate authorities that liquidation proceedings against the two organizations be halted, but was unable to give any assurances that the request would be honored. He asked that the U.S. put its specific proposals in a draft agreement which the Government of Uzbekistan could review and respond to.

¶5. (C) The Uzbek side also reminded that tax exemptions for microfinance activities ended in January 2006 and that ACDI/VOCA and FINCA had not paid tax liabilities incurred on any profits made in 2006. Payment of these liabilities also should be factored in when considering the costs of liquidating the organizations. He noted that total tax liabilities would be determined only during the final liquidation audit, but said that it is possible that these liabilities would equal the amount of money already seized from the two organizations. In this case, he suggested, it would not be necessary for the tax authorities to return these funds. USAID Legal Advisor agreed that outstanding tax liabilities was an issue that needed to be discussed. He reiterated that working through these issues would take time and would be possible only if the tax committee halted its

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liquidation proceedings against the organizations.

¶6. (C) Comment: While many details remain, Post believes that this first meeting suggests that the Government of Uzbekistan has made the decision to work out a deal. We were particularly pleased with the ease with which the Uzbek side accepted granting "forgiveness" of the tax penalties, which should allow ACDI/VOCA and FINCA to eventually leave the country with no contingent liabilities. Post believes that a Memorandum of Understanding between USAID and the GOU is an appropriate vehicle for concluding an initial agreement. Post informally will provide a draft MOU to MFA for consideration and comment.

HANSON